

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FERDINAND REYNOLDS,

Plaintiff,

No. CIV S-95-1451 GEB DAD P

vs.

JAMES GOMEZ, et al.,

Defendants.

ORDER

_____ /

In 2004, the Ninth Circuit Court of Appeals vacated the judgment that was entered in this action on March 9, 2001, after a court trial. The case was remanded for a factual determination whether plaintiff's consent to his attorney's waiver of his right to a jury trial was conditioned on a trial being conducted before the magistrate judge rather than the district judge. On June 17, 2004, the district judge determined that plaintiff consented to the waiver of his jury trial right and to a bench trial before the district judge. The judgment previously entered on March 9, 2001, was reinstated and the case was closed on June 17, 2004. Plaintiff has recently filed two pro se letters in this closed case.

In a letter dated July 20, 2005, and addressed to the Clerk's Office, plaintiff asserts that orders filed in this court after reversal and remand were erroneously served on plaintiff's former attorney. Plaintiff claims that he was not represented by counsel after the

1 reversal and remand but further claims that the district court's orders should have been served on
2 the attorney appointed by the Ninth Circuit to represent plaintiff during the evidentiary hearing
3 on remand. Plaintiff requests that the Clerk notify his "new" attorney of these errors.

4 An examination of the Ninth Circuit order attached to plaintiff's letter reveals that
5 the Ninth Circuit appointed counsel to represent plaintiff in his appeal. Proceedings in the
6 district court after remand are not part of the appeal. On remand in this case, plaintiff's attorney
7 of record was served with the orders issued by the district judge on May 11, 2004, and June 17,
8 2004. Plaintiff's attorney of record did not at any time move to withdraw as counsel, plaintiff did
9 not at any time move to relieve counsel of his duties, plaintiff did not at any time move to
10 substitute himself in propria persona, and no new counsel moved at any time for substitution as
11 plaintiff's attorney of record. On the basis of this record, no action has been taken or will be
12 taken by the Clerk in response to plaintiff's letter.

13 In his letter dated September 6, 2005, plaintiff inquires about the status of his
14 "motion." No motion has been filed in this closed case. Plaintiff is advised that no orders will
15 issue in response to subsequent letters addressed to the clerk or in response to improperly filed
16 motions.

17 Accordingly, IT IS HEREBY ORDERED that:

18 1. Plaintiff's letters filed in this closed case on July 25, 2005, and September 9,
19 2005, will be disregarded; and

20 2. The Clerk of the Court is directed to serve a courtesy copy of this order on
21 Ferdinand Reynolds, #D-11772, at Salinas Valley State Prison, P.O. Box 1050, Soledad,
22 California 93960.

23 DATED: September 28, 2005.

24 
25 _____
26 DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:13
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